

Express Mail No. EV 740512523 US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/838,330
Applicant : Michael B. Marks
Filed : April 20, 2001
Title : METHOD FOR ASSEMBLY OF UNIQUE PLAYLISTS
Art Unit : 2645
Examiner : Lisa Hashem

Docket No.: : MET88-68155
Customer No. : 24201

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 CFR § 1.137(b)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

A Notice of Abandonment was mailed on November 4, 2005. The present application was unintentionally abandoned.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. 1.137(b) was unintentional.

Applicant hereby provides the following additional information.

Until recently, this application had been prosecuted *pro se*.

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750.00 OP

An amendment in response to the final Office action dated June 29, 2004, was filed on January 27, 2005, together with a Petition for Revival of Application Abandoned Unintentionally. This was less than one month after the six-month statutory period for response.

On March 22, 2005, the Office of Petitions denied the Petition to Revive because, "The instant petition lacks item 1 [the required reply]."

The *pro se* Applicant understood the statement regarding the "lack" of the required reply to mean that the amendment filed with the earlier Petition to Revive had been misplaced. As a result, on May 6, 2005, the *pro se* Applicant filed a letter which resubmitted "a copy of the entire documentation originally filed on January 27, 2005."

On October 18, 2005, the Office of Petitions again denied the Petition to Revive because, "The instant petition lacks item 1 [the required reply]." In particular, the Office of Petitions noted that the amendment filed on May 6, 2005, was considered "non-responsive" because it did not place the application in condition for allowance.

The Office of Petitions stated that a request for reconsideration could be submitted within two months of the October 18, 2005 mailing date, and that extensions of time under 37 C.F.R. 1.136(a) were permitted. With a five-month extension of time, a request for reconsideration could have been filed on May 18, 2006. The present Petition is being filed less than two months after that date. The undersigned attorney was retained to prosecute this application less than one month prior to the filing of the present Petition. At no time did the Applicant intend to abandon the application.

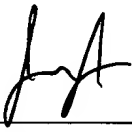
Together with the present Petition, a Request for Continued Examination ("RCE") under 37 CFR 1.114 is being submitted. As part of the RCE, it is requested that the amendment filed on May 6, 2005, be entered.

Since the present utility application was filed after June 8, 1995, a terminal disclaimer is not required for this petition to revive. *See* 37 CFR 1.137(c).

A check in the amount of \$750.00 is enclosed for the petition fee. The Commissioner is authorized to charge any additional fees that may be required by this paper to Deposit Account No. 06-2425.

Respectfully submitted,

FULWIDER PATTON LLP

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